

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR PUBLIC MEETING
MINUTES
August 4, 2008**

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: William Martin, Chairman
Raymond Arroyo
Dan Koch
Joseph Frasco, Vice-Chairman
William Viethier
Guy Hartman
Eric Oakes

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis Raimondi, Maser Consulting, PA
Board Engineer
Steve Lydon, Burgis Associates
Borough Planner

ABSENT: Christopher Owens (Alt #1) (excused absence)
Michael Bieri (Alt. #2) (excused absence)

Joseph Frasco stated he listened to tape of 7/14/08 meeting and signed a certification.

4. MINUTES - The Minutes of 7/7/08 and 7/14/08 were approved on motion of Raymond Arroyo, seconded by Joseph Frasco, and

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carried unanimously on roll call vote. The Board advised the Minutes of 5/5/08, 6/2/08 & 6/9/08 were approved;

5. CORRESPONDENCE: As listed on Agenda and read:

1. Letter dated July 24, 2008 from William Petrina regarding his application;

2. Letter dated July 24, 2008 from State of NJ Council on Affordable Housing RE: Affordable Housing Reform Statute;

3. Memorandum dated July 23, 2008 from Burgis Associates RE: Vaccaro application;

4. Memorandum dated July 16, 2008 from Clerk's Office RE: Board Member Resignations;

5. Memorandum dated June 26, 2008 from Borough Administrator RE: Draft Ordinances related to Housing Officer and Housing Task Force;

6. Memorandum dated July 23, 2008 from Burgis Associates RE: Bermudez;

7. Letter dated July 22, 2008 from Maser RE: Paragon Federal Credit Union;

8. Letter dated July 16, 2008 from Maser RE: Bermudez;

9. Letter dated July 17, 2008 from Maser RE: Vaccaro;

10. Letter dated July 18, 2008 from Joel & Joel RE: Donovans Hand Car Wash;

11. Letter revised July 23, 2008 from Joel & Joel RE: Westwood Car Wash;

12. Letter dated July 24, 2008 from Bergen County Dept. of Planning RE: 345 Old Hook Road LLC;

13. Letter dated July 28, 2008 from Joel & Joel RE: Westwood Car Wash;

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14. Letter dated June 25, 2008 from Lawrence Kleiner, LLC
RE: Carmen Bernal;

15. Memorandum dated July 29, 2008 from Burgis RE: Albert's
Westwood Cycle;

6. VOUCHERS: A motion to approve vouchers totaling \$4,712.52 was made by Mr. Vietheer and seconded by Mr. Frasco and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. Falcone, 11 Fifth Avenue, Block 914, Lot 2 - Addition-
Board Attorney Rutherford gave an overview of the Resolution of Approval. A motion for approval of the Resolution was made by Mr. Hartman and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Koch, Mr. Frasco, Mr. Arroyo, Mr. Hartman, Mr. Oakes, and Mr. Vietheer voted yes. Mr. Martin was recused.

2. Pronovost, 497 Fourth Ave, Block 915, Lot 5 - Addition & Second Floor Alteration - Board Attorney Rutherford gave an overview of the Resolution of Approval. A motion for approval of the Resolution was made by Mr. Hartman and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Koch, Mr. Frasco, Mr. Arroyo, Mr. Hartman, Mr. Oakes, and Mr. Vietheer voted yes. Mr. Martin was recused.

8. PENDING NEW BUSINESS:

- 1. Lynch, 117 Beech Street - Application for C variance -**
Scheduled for 9/8/08;
- 2. Mark Salerno, 175 Third Avenue - Storage -** Scheduled for 9/8/08;

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in

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1. Park/Brian/GV Investment and Consulting - Proposed Subway - Carried to 9/8/08;

2. Paragon Federal Credit Union, Washington Avenue, Block 805, Lots 2 & 3 - A letter dated 7/15/08 was received from David. Spatz, Community Housing & Development, stating he was not available to attend that evening, and that he submitted all his comments previously on 6/10/08, updated as of 8/1/08., and Jeffrey A. Zen, Esq. represented the applicant. A smaller version of the Proposed Floor Plan, together with a colorized version of the Proposed Elevations were distributed and marked A14. This was exactly what was submitted in their package. Mr. Zen stated they had their engineer, architect and traffic expert present and gave a summary per comments made at the last meeting. They tried to address the concerns of the Board, which included providing architectural details, saving two large trees, pedestrian access, and parking.

Robert Nocella, Architect, testified as to the changes and architectural details as appeared on the Elevations. There were no questions. Moving on to the Floor Plan, the architect testified as to the revised schematic to suit the new building orientation on the site. There were no questions. Mr. Martin commented he would like to see a true brick. He liked what they did with the building, but did not see anything on the eastern elevation. Mr. Nocella said they could add something to make it work with the plan. Mr. Martin commented as the cars come down, there may be some confusion as to where the front entrance is and questioned what renovations would be made to the outside. Mr. Rutherford advised a preservation or restoration plan would be a condition of variance approval. Mr. Raimondi inquired about conditional use, and Mr. Rutherford advised this is a bifurcated application, and the Board should address any significant variances or conditions that are part and parcel of the conditional use variance.

Applicant's next witness was Paul F. Cowie, NJ Licensed Tree Expert, 150 River Road, Montville, NJ was sworn in, qualified and accepted. Mr. Cowie's Resume was distributed and marked A15. He prepared a report dated and had inspected two large trees in the middle of the site. They were identified as a pin oak, 33" in diameter, appearing to have a good number of years left, and a Norway Maple, 36", in fairly good condition, does not have the same tolerance for construction. He was also

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concerned with the roots and structure and whether it would stand up during construction. A colorized version of the tree area on the site plan was marked A16. Both trees are about 16+ feet high. The oak tree could have another 40-50 years left, and the Norway Maple would have less, maybe 15 years. They tend to fall apart and be taken down before they die. A replacement tree was also discussed. He could not give a species recommendation without studying the soil. Mr. Zen said if they were approved they would come back with a landscaping plan. Mr. Martin expressed concern for all the trees on the property and questioned Mr. Cowie about saving the trees in question. Mr. Cowie indicated there could be a way. There were no interested parties and no further questions of Mr. Cowie.

The Board took a recess from 9:20-9:30 p.m.

Steven Napolitano continued under oath and testified as to A17, the revised site plan, describing the changes. Mr. Raimondi questioned if there was an overhang by the 4' walk to the parking spaces they created and suggested either making the sidewalk wider or create a landscaped island. Mr. Napolitano stated they could do that. Mr. Raimondi inquired about moving the building closer to the easterly property line and have a driveway to the left around the 60" circle around the trees, but Mr. Napolitano said it could not be done, and the trees could not be saved that way and they could not get the parking spaces. Mr. Martin noted from the inquiries and comments that there are alternative configurations that could be made. Mr. Martin suggested if the colorized area be turned into green space, there would be no curbs against the tree and parking could be inserted, so there are alternatives that were not explored. Mr. Napolitano agreed there are alternatives. Mr. Frasco commented the oak was a common tree with no significant benefit to the town. Mr. Martin said it does have some intrinsic beauty there was testimony it could be saved. There were no further questions.

Brian Dempsey, Traffic Engineer, was sworn in and testified as to traffic movement and patterns. He gave his opinion traffic circulation. Mr. Raimondi asked about cars coming out of Fourth Avenue, making a left, and a vehicle turning left into the site. Mr. Raimondi said his reasons for putting the driveway on the west are for safety and better movement. It gives the historical building a little more visibility. Mr.

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Raimondi suggested getting a letter from the County Engineering Department as to any probability of alight being constructed at Irvington and Madison. Mr. Martin commented if we get to the site plan review, enough issues have already been raised that can be incorporated into the plan. There were no interested parties and no further questions.

Mr. Zen summed up briefly and asked that the Board consider their application for the D3 variance, and requested a determination on the issue of res judicata that was raised and whether or not the existence of two structures on one lot is either a "D" variance or "C" variance. Mr. Rutherford agreed it was a "C" variance since the uses proposed are permitted. Mr. Martin asked if there were any interested parties on the "D" portion of the variance, and there were none.

1. Two buildings on one lot being a "C" variance - Mr. Arroyo agreed with Mr. Rutherford and moved that the two buildings on one lot is a "C" variance not a "D" variance. Mr. Martin commented this is an interpretation, and could be used by the zoning Offer in future determinations. The motion was seconded by Mr. Frasco. On roll call vote, all members voted yes.
2. Res judicata - Mr. Rutherford gave an overview advising that this arises out of a prior application. Mr. Martin commented in the previous Commerce Bank application, the land was smaller, and that application proposed to remove all buildings, and proposed that is significantly different and res judicata would not apply. He asked to hear from other Board Members, who commented as well. A motion that it does not apply was made by Mr. Arroyo and seconded by Mr. Hartman. On roll call vote, all members voted yes.
3. "D3" variance - Mr. Martin commented the next variance was the "D3" variance. Mr. Arroyo commented in hearing the testimony of the planner, there was a clear statement of purpose, and the use as presented proposes no threat to the goal of the Governing Body. Mr. Frasco agreed and discussed conditions to be placed.

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Mr. Martin called for a motion with a discussion on conditions to follow. Mr. Arroyo moved to grant a D3 variance, with second by Mr. Koch. Conditions placed would be that the historical property per preserved and stabilized, and properly maintained in accordance with the Historic Preservation Committee; that the architecture of the proposed building that was presented is, in fact, the building that is proposed, with the full 4" thick brick exterior and the detail that was presented verbally and graphically; windows on the East side to be shown in more detail, to be presented further with the site plan issues; landscaping in the middle of the site, that every effort be made to save the trees. Jurisdiction is maintained by the Board over the site plan. Mr. Rutherford advised that the applicant would also be granted the bulk variance to permit two structures on one site; subject to site plan approval. There were no further questions, comments or discussions. On roll call vote, all members voted yes.

3. Phil Petrina, 118 3rd Avenue - Proposed Sunroom addition - Carried to 9/8/08 at request of the applicant without having to notice;

4. Dennehy, 40 Lester Avenue - Section 68 Appeal - Addition/Front Porch & Hearing on Appeal - Carried to 9/8/08 at request of the applicant at the last meeting without having to notice;

5. F&A Woodland Associates, 309 Kinderkamack Road - Use Variance - Carried to 9/8/08 at request of applicant's attorney at last meeting;

6. Uniq Surfaces, 701 Broadway, Block 701, Lot 7 - Variance - Carried to 9/8/08 at request of the applicant. Applicant to renote and republish.

7. Bermudez, 32 Grove Street - Replacement of Porch - Carried to 9/8/08 at request of the applicant without having to notice;

8. Puentes, 60 Wheeler Avenue, Block 205, Lot 1 - Addition, Patio, New Garage, Driveway Replacement & Section 68 Certificate - Carried to 9/8/08 at request of the applicant. Applicant to renote and republish;

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9. Sprenger, 221 David Hopper Place, Block 302, Lot 25 - Section 68 Certificate - Joyce Sprenger, applicant was sworn in and provided the Notice of Publication and Notice, which the Board Attorney found to be in order; however, the Affidavit of Publication must be provided. She does not live at the premises, but rents it out to two tenants. She purchased it as a two-family in 2003. Mr. Martin noted there were tax records submitted showing that the property was used consistently as a two-family house with no break in the chain. Mr. Frasco asked if there were any changes, and Mrs. Sprenger stated there were none. Mr. Martin noted historically, these homes on David Hooper Place were built as two-families. Additionally, there are two separate meters. She distributed three photos, which were marked into the record. There were no interested parties present, and no further questions, comments or discussions. Mr. Frasco moved to approve with second by Mr. Vietheer. On roll call vote, all members voted yes.

10. Vaccaro, 100 Fourth Avenue - Garage expansion - Carried to 9/8/08 at request of applicant; Applicant to publish and give notice.

11. Burke's Bar & Grill, 65 Old Hook Road - Construction of Outdoor Deck - Carried to 9/8/08 at request of applicant (via telephone call; application may be withdrawn)

12. Albert's Westwood Cycle, 182 Third Avenue - Variance approval; Carried to 9/8/08 at request of applicant; Applicant to publish and give notice. (Recused: Eric Oakes)

11. DISCUSSIONS: None

12. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 10:45 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Planning Board Secretary